

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BRANDON ASSOCIATES, LLC,
Plaintiff,

v.

FAILSAFE AIR SAFETY SYSTEMS CORP.,
Defendant/Plaintiff-in-Counterclaim

v.

DONALD B. FLANAGAN, in this individual
capacity,
Defendant-in-Counterclaim

Civil Action No. 04-12013 NMG

JOINT MOTION
TO STAY SCHEDULING ORDER AND DISCOVERY

The parties, *Brandon Associates, Inc.*, *Donald B. Flanagan*, and *Failsafe Air Safety Systems Corp.*, hereby respectfully request that this Court stay its Scheduling Order and all further discovery until after the upcoming Mediation in the hopes that the parties will successfully resolve their dispute.

In support of this motion, the parties state as follows:

- Pursuant to the original Scheduling Order issued in this matter, all written discovery was completed on June 30, 2005. Subsequent to this date, the Court granted the Defendant's motion to amend its counterclaim and add *Donald B. Flanagan* as a third-party defendant. See *Memorandum and Order* of July 11, 2005, Gorton, D.J. Accordingly, no written discovery has been taken by or of Mr. Flanagan as a party to this action.

- In addition, pursuant to the Scheduling Order, all remaining fact discovery must be completed as of September 30, 2005.
- However, on June 17, 2005, the Court issued an *Order Of Reference For Alternative Dispute Resolution* and has recently contacted the parties with respect to scheduling a Mediation in the fall of 2005.
- In an effort to mitigate the time and expense of further litigation, and in the hope that the upcoming Mediation will resolve the parties' dispute, the parties seek to stay the Scheduling Order including all further discovery until the Mediation has been completed.
- Should the Mediation not be successful, the parties will thereafter seek to amend the original Scheduling Order to allow the parties to complete all necessary discovery and to set forth a new schedule for the filing of dispositive motions.

WHEREFORE, for these aforementioned reasons, the parties request that, in light of the upcoming Mediation, the Court stay its Scheduling Order, including all further discovery and the filing of dispositive motions.

BRANDON ASSOCIATES, LLC
By its attorney,

s/Harris K. Weiner

Harris K. Weiner, BBO # 551981
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(401) 351-8200

Dated: August 22, 2005

FAILSAFE AIR SAFETY SYSTEMS CORP.
By its attorney,

s/Laurie M. Ruskin

Laurie M. Ruskin, *Of Counsel*, BBO# 630374
SWEDER & ROSS LLP
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(617) 646-4466

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served
upon the attorney of record for each of the other parties in this action
by U.S. mail this 22nd day of August, 2005.

s/Laurie M. Ruskin

Laurie M. Ruskin